

<p align="center">STATE OF VERMONT AGENCY OF HUMAN SERVICES DEPARTMENT OF CORRECTIONS</p>	<p>Title: OFFENDER FINANCIAL OBLIGATIONS - FIELD</p>		<p align="center">Page 1 of 7</p>
<p>Chapter RESTORATIVE JUSTICE</p>	<p align="center"># 426.01</p>	<p>Supersedes #426.01, dated 10/15/08.</p>	
<p>History of Superseded Documents: Supersedes #502.04 <i>Restitution</i>, dated 11/10/93.</p>			
<p>Attachments, Forms & Companion Documents: 1. Payment Contract</p>			
<p>Local Procedure(s) Required: No Applicability: All staff (including volunteers and contractors)</p>			
<p align="center">DRAFT POSTED FOR FEEDBACK 4/25/12 – 5/09/12 <u>CLICK HERE TO PROVIDE FEEDBACK.</u></p>			

PURPOSE

The purpose of this administrative directive is to establish uniform procedures within the Department of Corrections for requiring and supporting offenders placed under the supervision of the Department to pay court-ordered fines/fees, restitution, Department supervision fees, and program fees.

POLICY

It is the policy of the Department of Corrections that offenders placed under the supervision of the Department will fulfill their financial responsibilities resulting from being convicted of an offense(s).

AUTHORITY

28 V.S.A. §102, (c)(14); 32 V.S.A. §5934; APA Rule # 08016/Policy #426 *Supervision Fees for Offenders under Field Supervision by the Department of Corrections, May 2008.*

REFERENCE

Department Administrative Directives #368.01 *Waiver of Offenders Fees for Contracted Intervention Services* and #371.05 *Offender Case Planning*. APA Rule #06-037/Policy #346 *Graduated Sanctions for Probation Violations*; Standards for Adult Probation and Parole Field Services, 3rd edition, August 1998, #3-3043, #3-3142, and #3-3209.

DEFINITIONS

Community Restitution Program: A Department intermediate sanction program in which an offender performs community work service on a Community Service Team or agency-supervised team for up to 60 days. The program is designed to be an alternative to a short incarcerative sentence.

Furlough: An extension of the limits of confinement of an inmate to locations outside a correctional facility (the community).

Intake: An initial meeting where an offender shares identifying information, criminal history, risk issues and other necessary information with the Probation Officer.

Payment Contract: The Department form which is completed by staff to determine an offender's responsibility to pay a supervision fee. Eligibility for a waiver is based on whether or not the offender meets one of the specific requirements for an exemption.

Parole: The release of an inmate to the community by the Parole Board before the end of the inmate's sentence, subject to conditions imposed by the Board and subject to the supervision and control of the Commissioner of Corrections.

Pre-Approved Furlough (PAF): The legal status in which an offender is sentenced to serve a term of imprisonment, but is placed by a court on furlough to participate in such programs administered by the Department that reduce the offender's risk to reoffend.

Probation: The legal status a court may impose on a defendant that suspends all or part of the sentence and places the person in the care and custody of the Commissioner of Corrections, upon such conditions and for such time as it may prescribe, in accordance with law, or until further order of the court.

State of Vermont Restitution Unit: This was created by the State legislature to address the financial hardship caused to crime victims when they must wait for an offender to pay restitution. For any restitution ordered on or after July 1, 2004, the Restitution Unit pays victims their restitution as soon as it has been ordered by the court. The payments are made from the Restitution Fund. The Restitution Unit then collects the outstanding amount from the offender and reimburses the Fund.

Supervised Community Sentence (SCS): A court-imposed sentence of incarceration to be served in a community setting subject to the rules of the Commissioner of Corrections. These offenders are under the jurisdiction of the Parole Board.

Supervision: The authority or oversight exercised by supervising authorities of the Department over an offender for a period of time determined by a court or releasing authority, during which the offender is required to report to, or be monitored by, supervising authorities. This includes any condition or requirement imposed on the offender at the time of the offender's release to the community or during the period of supervision in the community.

Tax Setoff Debt Collection: A process by which the Department may submit claims to the Tax Department for collection of offender debts of \$50 or more 60 days in arrears.

PROCEDURAL GUIDELINES

This administrative directive outlines the following:

- Determination of offender financial responsibilities;
- Collection practices, to include method and place of payment;
- Any exemptions, if applicable, of an offender's financial responsibility; and
- Guidance on responding to offender non-compliance.

PROCEDURAL GUIDELINES FOR SUPERVISION FEES

Statutory law and APA Rule # 08016, *Supervision Fees for Offenders under Field Supervision by the DOC*, require the Department to collect a supervisory fee of up to \$30 per month from offenders under the supervision of the Department and in the community on the following legal statuses: probation, furlough, pre-approved furlough, supervised community sentence or parole.

1. New Case Set up

- a. The Probation and Parole Officer (PO) will determine supervision fees for the offender at intake using the questions on the *Payment Contract (Attachment I)*, and document in electronic case notes. The supervision fee for all eligible offenders on probation, furlough, pre-approved furlough, supervised community service, or parole is \$15 per month and will be charged on the first calendar day of the month to any offender required to pay the fee. The fee will be due on the first calendar day of the following month.
- b. Those exempt from paying the monthly supervision fee to the Department are offenders in the following categories only:
 - i. Offenders whose sole source of income is Supplemental Security Income (SSI), Social Security Disability Insurance (SSDI), Vermont's Aged, Blind, and Disabled Program (AABD), or the Reach Up Program;
 - ii. Offenders sentenced to the Community Restitution Program **only**;
 - iii. Offenders supervised in another state, subject to the rules of the Interstate Compact for Adult Offender Supervision;
 - iv. Offenders residing in a residential treatment facility for thirty (30) days or more;
 - v. Offenders housed in a correctional facility for thirty (30) days or more.
- c. Offenders will provide written proof that they are on SSI, SSDI, AABD, or in the Reach Up Program. The fee will be assessed until the offender provides the appropriate documentation.
- d. Offenders on parole supervision for life may request an exemption from supervision fees when they are on "Administrative Supervision" status as ordered by the Parole Board.
- e. The PO must review the offender's exemption status every six (6) months and either continue the exemption or re-instate the supervision fee.
- f. The PO must also ensure that supervision fee assessments are stopped when an offender is incarcerated and the assessments reinstated when they are released.

2. Payment Processing of Supervision Fees

- a. The Department will collect supervision fees from offenders via U.S. mail to a centralized lockbox.
- b. Offenders must make payments in the form of a certified bank check or money order made payable to the Vermont Department of Corrections.
- c. The administrative staff person responsible for entering payments into Corrections' accounting system will follow Department accounting practices. In cases where offenders owe both court-ordered fees/fines collected by the Department and supervision fees, offender payments will be applied to supervision fees first, with amounts paid over the amount of fees owed applied toward the court-ordered fees/fines.

d. Offenders may pre-pay supervision fees.

3. Non-Payment of Supervision Fees

a.

i. While it is the offender's responsibility to pay supervision fees, it is the responsibility of the PO to encourage, motivate and monitor offenders to ensure payments are current.

ii. It is the offender's responsibility pay any prior unpaid supervision fees or unpaid court fees.

b. Prior to closing any probation supervision case, the PO will make every possible effort to ensure that the offender has paid all supervision fees in full. An offender on probation will not be violated for failure to pay supervision fees. Probation cases may be discharged from supervision if all other conditions have been met except payment of supervision fees; however, any outstanding debt as a result of unpaid supervision fees will remain in Corrections' accounting system for referral to the State Income Tax Setoff Program administered by the State of Vermont Tax Department.

c. Offenders under the supervision of the Department and in the community on furlough, pre-approved furlough, supervised community sentence or parole will not be returned to jail for failure to pay supervision fees **only**; however, any outstanding debt as a result of unpaid supervision fees will remain in the Corrections' accounting system for referral to tax setoff debt collection.

PROCEDURAL GUIDELINES FOR COURT-ORDERED FINES/FEEES

Pursuant to statute, the criminal court system of Vermont, as part of sentencing, is required to charge fees and allowed to assess fines to defendants.

1. Payment Processing of Court-Ordered Fines/Fees

These fines/fees will be collected by the Department of Corrections (DOC) as a function of case management duties only when ordered through a condition of probation, supervised community sentence, or pre-approved furlough.

a. The PO will discuss with the offender the amount of the fines and fees owed and have the offender agree upon a rate of payment, which must be documented in electronic case notes. If the offender has prior court fee debt collectible by DOC, the PO will inform the offender of their responsibility to pay.

b. The Department will collect court-ordered fines/fees (as described in 1.a.) from offenders via U.S. mail to a centralized lockbox.

c. Offenders must make payments in the form of a certified bank check or money order made payable to the Vermont Department of Corrections.

d. The financial staff person responsible for entering payments into Corrections' accounting system will follow Department accounting practices. In cases where offenders owe both court-related fees/fines collected by the Department and supervision fees, offender payments will be applied to supervision fees first, with amounts paid over the amount of fees owed applied toward the court-related fees/fines.

2. Non-Payment of Court-Ordered Fines/Fees

- a. While it is the offender's responsibility to pay court-ordered fines/fees, it is the responsibility of the PO to encourage, motivate and monitor offenders to ensure payments are current.
- b. Any outstanding debt equal to the minimum stated in 32 VSA, § 5933 (a) (currently \$50.00) will remain in Corrections' accounting system for referral to the State Income Tax Setoff Program administered by the State of Vermont Tax Department.

PROCEDURAL GUIDELINES FOR RESTITUTION

Pursuant to statute, restitution will be considered by the Court in every case in which a victim of a crime has suffered a material loss. In awarding restitution, the Court will make findings with respect to the total amount of the material loss incurred by the victim and the offender's current ability to pay restitution.

1. New Case Set Up

- a. The PO will review with the offender their responsibility regarding court-ordered restitution. The State Restitution Unit will collect and disburse all restitution, which is ordered by the Court.
- b. Any questions that the offender may have regarding restitution amounts or payment schedule can be referred to the Restitution Unit.

2. Payment Processing of Restitution

- a. The Department will not collect any restitution, but will work collaboratively with the Restitution Unit to assist with the collection.
- b. The Department will provide the Restitution Unit with information about the location and employment status of the offender.
- c. POs will monitor an offender's restitution payments through collaboration with the Restitution Unit.

3. Non-Payment of Restitution

- a. An offender may not be charged with a violation for non-payment of a restitution obligation incurred after July 1, 2004. An offender sentenced before July 1, 2004 with a restitution obligation may be charged with a violation for non-payment. While it is the offender's responsibility for payment of restitution, it is the responsibility of the PO to encourage, motivate and monitor offenders to ensure payments are current.
- b. Offenders may be discharged from probation with an outstanding balance on their court-ordered restitution as long as the restitution obligation was ordered after July 1, 2004. The Restitution Unit can file an action to enforce the restitution order in Superior or Small Claims Court.

PROCEDURAL GUIDELINES FOR PROGRAM FEES

Offenders participating in contracted intervention services are required to pay a fee in support of those services. Offender payment to contracted providers is designed to increase their investment in change and add to the therapeutic benefit of the service received. It also helps to reduce the cost to the State. These fees will be collected by the contracted provider, who will account for those payments to the State. The total of those payments will be credited toward the amount owed to the contractor by the State for the service.

1. New Case Set Up

The PO will discuss the rate of payment with the offender and have the offender agree to pay the contracted provider in compliance with Department Directive #368.01, *Waiver of Fees for Contracted Intervention Services*.

2. Payment Processing of Program Fees

The contracted provider will receive the payment and report to the State the status of all payments made under the authority of this administrative directive.

3. Non-Payment of Program Fees

- a. It is the offender's responsibility to pay the program fee as agreed to at admission to the program, unless the fees are waived. It is the responsibility of the PO and contracted provider to encourage, motivate and monitor offenders to ensure that payments are current.
- b. The offender may be removed from the program for non-payment of the assigned fee. Efforts should be made through case management and intervention strategies to bring the offender into payment compliance prior to program removal.
- c. Failure to comply with payment for intervention services may result in further Department action based on the change in offender status, as well as program removal.

TRAINING

1. The District Managers will ensure that all staff under their supervision has been trained on their responsibilities, if any, related to this administrative directive.
2. The Financial Director will ensure that all staff under her/his supervision has been trained on their responsibilities, if any, related to this administrative directive.

QUALITY ASSURANCE

1. The Director of Community Corrections, Re-entry, and Classification will monitor Probation and Parole offices monthly for the number of offenders assessed supervision fees and the dollar amount collected. The Director of Community Corrections, Re-entry and Classification will report this data monthly to the District Managers.
2. The Quality Management Unit will review reports developed by program managers and outside vendors, if relevant, and assist in the development of a quality assurance system of the collection process.

ATTACHMENT 1 - SAMPLE**PAYMENT CONTRACT/ WAIVER APPLICATION**

OFFENDER: _____ DATE: _____

DOB: _____ PID #: _____ Max/Term Expiration Date: _____

1. Does the offender receive Supplemental Security Income (SSI) or Social Security Disability Insurance (SSDI) as their sole source of income? (*Attach documentation.*) _____ YES _____ NO
2. Does the offender receive payments from Vermont's Aged, Blind, and Disabled program as their sole source of income? (*Attach documentation.*) _____ YES _____ NO
3. Does the offender receive Reach-Up benefits as their sole source of income? (*Attach documentation.*) _____ YES _____ NO
4. Is the offender sentenced only to the Community Restitution Program? _____ YES _____ NO
5. Has supervision been transferred out of state, subject to the rules of the Interstate Compact for Adult Offender Supervision? _____ YES _____ NO
6. If the offender is on parole for life, has he/she been placed on "Administrative Supervision" by the Parole Board? _____ YES _____ NO

If the offender is housed in a residential treatment facility or correctional facility for 30 consecutive days or more, he/she will be exempt from paying supervision fees for that time period only.

Unless an exemption above is marked yes, I understand that I am required to pay a **\$15 monthly supervision fee** to the Department of Corrections. This fee is due by the first business Monday of each month and will continue as long as I am under the supervision of the Department of Corrections.

I agree to make payments of \$15 per month for supervision fees effective _____. I also agree to pay court fees/ fines, restitution, and any program fees as required. I understand that failure to pay may result in sanctions and/or possible loss of my future tax returns through the tax offset collection process. I understand that I am obligated to pay any prior unpaid supervision fees or unpaid court fees.

Offender (*Signature*) Date Probation Officer (*Print & Sign*) Date

I understand that I may be exempt from paying supervision fees at this time. However, this exemption will not go into effect until I provide the DOC with written documentation verifying my exempt status. I will be charged \$15 per month, beginning the first full month, for the duration of my supervision term until I provide proof of my eligibility for a waiver. I also understand this exemption will be re-assessed every six (6) months or when circumstances warrant it.

Offender (*Signature*) Date Probation Officer (*Print & Sign*) Date

Waiver of Supervision Fees Requires Supervisor Approval _____

Supervisor (*Print & Sign*) Date

Payments (money order or bank check only) should be made out to VT Dept. of Corrections and mailed to:

Vermont Dept. of Corrections, Probation and Parole
P.O. Box 1352
Williston, VT 05495-1352

Cc: Offender file, Business Manager